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DRILL, SPILL AND BILL: EXXONMOBIL, A WELL OILED MACHINE

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Private Empire: ExxonMobil and American Power. By *Steve Coll*. New York: The Penguin Press. 2012.

INTRODUCTION

Over the past few years the world economy has fluctuated, countries have faced financial crises, businesses have failed, people have faced growing levels of poverty and the United States had its credit rating downgraded for the first time in its storied history.¹ Among the bleak economic climate, one company has managed to thrive and realize growing profits. For some this company was a beacon of success, for others a symbol of corporate greed. “We’re Exxon, we do it right.”

In his new book, *Private Empire: ExxonMobil and American Power*, Steve Coll provides a look behind the curtain of one of the most influential companies in the world. Beginning with the catastrophic oil spill of the Exxon Valdez and ending with the disastrous Deepwater Horizon spill by BP, Coll tracks ExxonMobil’s ventures around the world documenting Lee Raymond and Rex Tillerson’s efforts to rebuild Rockefeller’s Standard Oil into the most profitable company ever.

Writing chronologically, Coll analyzes in great detail a wide array of issues that plague ExxonMobil on a daily basis. These issues range from newsworthy stories such as oil spills, alleged human rights violations, and the decisive issue of global warming to less noteworthy stories such as replenishing oil reserves and corporate mergers and acquisitions. In discussing the numerous oil spills ExxonMobil has suffered over the years, Coll provides a unique perspective, that of ExxonMobil as he details its efforts to clean up and avoid future spills (p. 378-79, 614). Coll takes this perspective a step further in reviewing ExxonMobil’s thought process behind its opposition to global warming and how the company faces the possibility of a shift towards alternative energy sources (p. 83).

By beginning his book with the Exxon Valdez oil spill, Coll effectively engages the reader by presenting the prevailing public animosity towards ExxonMobil. To the outside world, “ExxonMobil seemed like an arrogant, opaque company that was hostile to social responsibility and preferred to go its own way” (p. 222). However, writing from the perspective of ExxonMobil, Coll convincingly argues that ExxonMobil is more than just an American company focused on American ideals serving American constituents. *Private Empire’s* central thesis is that although outwardly appearing to be an American company and power, ExxonMobil is in fact a Private Empire balancing a fine line complying with regulations of international business and law while seeking ever increasing profits.

Coll supports his thesis by presenting a thorough analysis of ExxonMobil’s operations around the world and its interactions with foreign governments. Close to seventy percent (70%) of ExxonMobil’s profits and sales come from operations outside of the United

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¹ Zachary A. Goldfarb, *U.S. Rating Downgraded for First Time*, WASH. POST, Aug. 6, 2011, at A1.

States (p. 321). ExxonMobil operates in an industry in which “[g]lobal oil production was indispensable to the American economy” as well as to all developed nations around the world (p. 220). Therefore, ExxonMobil has a business model that allows it to prevail in spite of catastrophic disasters such as the Exxon Valdez. As public animosity rises it is irrelevant to the bottom line as people are unable to change consumer behaviors and remain dependent on oil (p. 615). Even if consumer behaviors in the United States move towards alternative forms of energy, which is remote, ExxonMobil still operates globally and will be able to reap profits worldwide.

This Notice focuses on Coll’s analysis of ExxonMobil as a global power and considers whether its time-tested policies and strategies will be able to sustain ExxonMobil’s astonishing growth and success for years to come. Part I reviews the history of ExxonMobil and summarizes the book. Part II analyzes Coll’s central thesis that ExxonMobil is a Private Empire and a global company. Part III addresses the current news of ExxonMobil including its continued adherence to a strict litigation strategy and continued response to oil spills. This Notice concludes by predicting what lies in store for the future of ExxonMobil.

I. FROM U.S. MONOPOLY TO BREAKUP TO GLOBAL SUPERPOWER

Although Coll spends most of the book discussing the current global superpower that ExxonMobil has become, he briefly addresses its origins. Left out of the book is the rise of Standard Oil from the 1850s to its eventual breakup in 1911.² Upon dissolution, Exxon became the New York offshoot of Standard Oil (p. 19). Beginning in the 1950s Exxon consistently ranked as one of the United States’ most profitable corporations and was a mainstay on the top of annual Fortune 500 lists. By 1959 Exxon reached the point of being the United States’ second largest corporation by revenue and profit (p. 19). The corporation grew rapidly, eventually breaking American records and obtaining influence in foreign countries that “was greater than that of the United States embassy” (p. 19-20).

The corporation’s influence was also widespread in the United States. Lobbyists influenced American foreign policy, economic, and environmental regulations (p. 20). In acquiring resources, great risks led to great rewards. Exxon entered unstable countries in the middle of coups, guerilla warfare, and small wars just to replenish reserves (p. 20). The corporation prevailed as political leaders came and went. As gasoline prices began to rise, Exxon profits soared and “American commuters felt powerless before its influence” (p. 21). Whether the people loved or hated Exxon was irrelevant, if they wanted to get to work, their gas tank had to be full. Coll notes that “[i]n effect, Exxon *was* America’s energy policy” (p. 21). Its growth culminated just before the year 2000 when Exxon merged with Mobil, creating the largest private producer of oil and natural gas in the world and eventually the largest corporation headquartered in the United States (p. 66). In ExxonMobil’s first year its gross domestic product would have ranked just outside the top twenty nations worldwide (p. 66).³

² *Our History*, EXXONMOBIL, http://www.exxonmobil.com/Corporate/history/about_who_history_alt.aspx (last visited Apr. 16, 2013).

³ “ExxonMobil ranked forty-fifth on the list of the top one hundred economic entities in the world, including national governments” (p. 66). This placed it ahead of over one hundred nation-states.

a. The Inevitability of Accidents

Despite the tremendous success of ExxonMobil, the corporation continues to face widespread criticism relating to its effect on the environment, in terms of both oil spills and the corporation's stance on global warming. Beginning with the oil spills; Coll provides an in depth analysis of each oil spill highlighting ExxonMobil's reaction and the efforts and cost spent to mitigate the damage.

Until a few years ago, the Exxon Valdez was considered the worst oil spill in history, dumping 240,000 barrels of crude oil into the Prince William Sound in only one day (p. 7). Coll provides a neutral analysis of the Exxon Valdez. He begins by describing the background of the Valdez and its importance to Exxon, delivering two million barrels of oil per day (p. 3). Much like telling a story, Coll walks the reader step by step through that night, compiling an impressive amount of information. The extensive research performed by Coll brings up the realization that Exxon, although responsible, was not solely to blame (p. 4).⁴ Despite that, Coll's analysis makes it clear that Exxon's lack of oversight was the problem. The oil spill was the result of human error, facilitated by "inadequate regulations and corporate safety systems" (p. 6). In an effort to thrive during tough times Exxon adopted the adage of doing more with less. This led to overworked employees and gaps in enforcement of regulations (p. 6-7). This same philosophy allowed Exxon to profit while its competitors suffered, but it came with a cost. Throughout time the oil industry has faced strong opposition from the public and was measured by its weakest member, namely the corporation with the worst reputation. At that moment it was Exxon (p. 17).⁵

By starting the book during Exxon's darkest hour, Coll is able to build Exxon up in the eyes of the reader and rehabilitate its reputation. This begins with Coll's discussion of Exxon's recovery plan for the Prince William Sound. Although Exxon often clashed with environmentalists and politicians in the most effective cleanup method, Exxon made every effort to rectify its mistake (p. 9-10). By the end of the Exxon Valdez spill Exxon had spent \$2.1 billion on cleanup (p. 14).

The next large oil spill Coll discusses is the spill in Jacksonville, Maryland. Unlike the Exxon Valdez spill, the Jacksonville spill occurred in a densely populated area. When the dust settled, it was estimated that 24,000 gallons of gasoline leaked into the ground and infiltrated ground water over the span of six weeks (p. 378). Although a blemish on ExxonMobil's safety record, Coll supplements his narrative with an industry wide outlook. At the time of this spill, ExxonMobil's safety procedures were well above the industry norms, but in an industry where millions of toxic materials are transported daily all over the world, accidents with serious environmental impacts are inevitable (p. 378-79).

Coll comes full circle in demonstrating ExxonMobil's reaction to oil spills by addressing two recent oil spills that for the most part have failed to garner public attention. The first occurred in Nigeria just ten days after the Deepwater Horizon explosion (p. 614). Due in large part to the public's preoccupation with an oil spill just off the eastern seaboard of

⁴ The Coast Guard sustained budget cuts and was arguably not fully operational, Exxon employees had trace amounts marijuana and alcohol in their system, and light government oversight meant this fell under the radar (p. 4-7). Exxon policies did not permit an unqualified employee to steer the ship or employees to consume alcohol on the job, but the lack of enforcement puts blame on Exxon.

⁵ Prior to the Exxon Valdez oil spill, Fortune magazine ranked Exxon as the sixth most admired American corporation. After the Exxon Valdez oil spill, it ranked one hundred and tenth (p. 33).

the United States, this oil spill, that discharged one million gallons on the Nigerian coastline, barely even registered with the American public (p. 614). The second oil spill, although much closer to home, also fell under the radar. ExxonMobil's pipeline in Wyoming sprung a leak and spilled one thousand barrels of oil into the Yellowstone River (p. 620). ExxonMobil paid over \$40 million in cleanup (p. 620). Coll convincingly argues that two things can be learned from these oil spills: (1) ExxonMobil has learned from past mistakes and is able to mitigate the damage to its reputation and (2) the "occasional catastrophic error could be managed and survived" (p. 615).⁶

b. Accepting Responsibility

Diving into great detail in the aftermath of the oil spills, Coll lays the foundation for ExxonMobil's litigation strategy. Beginning with the Exxon Valdez, Coll describes the litigation strategy for future oil spills (p. 385). As a general matter, ExxonMobil's position was to pick and choose its battles. The corporation essentially concedes liability and seeks to avoid punitive damages.⁷ This strategy started in the wake of the Exxon Valdez when Lee Raymond refused to pay punitive damages (p. 385). Litigation over the Exxon Valdez spill created new legal precedent: punitive damages were to be calculated using a reasonable multiplier of actual damages (p. 385).⁸

Turning to the Jacksonville spill, Coll provides the opportunity to see this litigation strategy in action taking the reader step by step and highlighting ExxonMobil's strategy along the way (p. 389). Coll's analysis of the Jacksonville litigation is excellent as he provides background of the case and a detailed biography of the opposing attorney, Stephen Snyder (p. 386-87). Prior to the start of trial, Exxon paid \$38 million to clean up the area surrounding the spill (p. 386). He emphasizes that ExxonMobil apologized for the spill and accepted liability for the actual harm (p. 389). At the end of the five month long trial and twelve days of jury deliberations the verdict came back finding Exxon liable for \$150 million in actual damages and no punitive damages (p. 392). Coll reflects on Standard Oil and now Lee Raymond's aggressive trial strategy; Exxon had consistently stated that it would pay whatever was fair in actual damages, but once trial ended Exxon appealed (p. 393). The money from the verdict was tied up in litigation and it would be years before it ever reached the plaintiffs. ExxonMobil stood firm and declared that

[w]e will not settle just to avoid a struggle; if we believe we are in the right, we will use our superior resources to fight and appeal for as long as

⁶ ExxonMobil has spent a lot of money to avoid most spills and has enforced regulations to ensure employee safety (p. 593). The increased quality in its refineries and production facilities has led to less frequent spills and safer operations (p. 594). The environmental consequences of oil spills are catastrophic, but to the average American who drives to work, the threatened danger to the environment does not affect their purchase behavior and gasoline remains a necessity to the American public (p. 615).

⁷ See *Exxon Shipping Co. v. Baker*, 554 U.S. 471, 479 (2008). The Supreme Court recognized that "Exxon stipulated to its negligence in the *Valdez* disaster and its ensuing liability for compensatory damages." *Id.* This is in line with Raymond's strategy of fighting punitive damages.

⁸ See *id.* at 481-82. The jury originally ordered Exxon to pay \$5 billion in punitive damages. Upon hearing by the Supreme Court, it was determined that a 1:1 ratio with compensatory damages was a fair upper limit in maritime cases. *Id.* at 513.

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possible, and when the case is over, your house may no longer be standing. Think twice before you take us on (p. 135).

Coll provides two other examples of this litigation strategy. In an Alabama civil fraud case, the jury awarded \$3.42 billion in punitive damages against ExxonMobil (p. 219). ExxonMobil appealed and eventually the verdict was thrown out. The second example brings Coll's research up to date as of the publication of this book. In a second lawsuit derived from the Jacksonville oil spill, the jury awarded punitive damages of \$1.5 billion and ExxonMobil again promised to appeal (p. 621). On February 28, 2013, ExxonMobil prevailed on its appeal and the Maryland Court of Appeals threw out the jury verdict of over \$1 billion in punitive damages.⁹

c. Visionary Leader

In charting ExxonMobil's rise, Coll focuses on Lee Raymond's role as CEO, his influence over Rex Tillerson, and the future of ExxonMobil. Coll portrays Raymond as a polarizing figure, with strong opinions and stringent adherence to rules and regulations. For example, after the Exxon Valdez oil spill, Raymond stated in a deposition

I'm never going to say that we are always doing everything exactly right. I would be naïve to do that; but if you are asking me, are there any major decision points that we faced in how to respond to that spill, that in hindsight we would go back and say we think were wrong, and I don't think there are any (p. 12-13).

Another example of Raymond's strong opinions and adherence to them is ExxonMobil's yearly S.E.C. reports calculating reserve replacement (p. 56). Raymond read the regulation and applied his interpretation of the rule. As a result, ExxonMobil fully replenished its reserves each year and its stock price continued to rise. Although not illegal, it is arguably misleading (p. 57).¹⁰

Perhaps the most well known inflexibility of ExxonMobil has been its stance on global warming. The reason is simple, "[a]ny effort to tax, limit, or eliminate carbon dioxide emissions on environmental grounds would have obvious implications for Big Oil" (p. 78). Increasing concern about global warming has the potential to reduce consumer reliance on gas and therefore reduce ExxonMobil's profits (p. 84). Despite this clear bias, Coll is quick to defend the authenticity of ExxonMobil's climate research (p.87).¹¹ Raymond was once quoted as saying "[i]f the data were compelling, I would change my view" (p. 88). After Raymond's retirement and Tillerson's ascension to CEO, ExxonMobil took a different stance on global warming as the science became harder to dispute and Al Gore's *An Inconvenient Truth* debuted (p. 338-39).

⁹ Tennille Tracy, *Court Reverses Damages from 2006 Gasoline Spill*, WALL ST. J., Feb. 28, 2013, at B5.

¹⁰ The reserve replacement was not as smooth year to year and Coll suggests that Wall Street's impression of reserve replacement may not have been accurate (p. 56).

¹¹ Coll distinguishes the oil industry from the tobacco industry by noting that corporate scientists employed by the tobacco companies knew that smoking was harmful but created misleading studies and buried facts (p. 87). ExxonMobil on the other hand used science to point out the gaps and uncertainties present in climate science.

Raymond's emphasis on discipline and rules was evident in ExxonMobil's internal regulations. After the Exxon Valdez incident Exxon implemented a system to improve workers safety and properly appraise risk (p. 30). An anonymous whistle blowing system was created so safety violations could be reported and improved (p. 30). Further, after the revelation that the crew was intoxicated during the Exxon Valdez incident, Exxon implemented the "Raymond Rule" which was a drug and alcohol testing program (p. 30). The safety implementations were so pervasive that every meeting would begin with discussion of a safety issue (p. 31). Everything was documented and meticulously recorded; reporting of injuries included bee stings and paper cuts (p. 31). The culture at ExxonMobil was to always improve.¹² The view of ExxonMobil in the industry reflected the perception Coll attributes to Raymond; once the corporation made up its mind, and decided to do something it did it better than anyone else (p. 222).

This characterization of Raymond and ExxonMobil leads Coll to one conclusion, whether you love them or hate them, you have to respect them. In Raymond's last year the company recorded a net profit of over \$36 billion, the highest ever for a corporation (p. 318). This figure broke ExxonMobil's record set the year before. Coll's respect for Raymond is evident; the heights to which Raymond took ExxonMobil during his tenure were dwarfed only by Rockefeller's peak at Standard Oil, controlling ninety percent (90%) of the domestic oil market (p. 35). In his twelve years as the head of ExxonMobil he grew the market capitalization from \$80 billion to an astounding \$360 billion (p. 318). ExxonMobil's income in Raymond's last year exceeded "the combined profits of the next five largest publicly traded American corporations, as ranked by revenue" (p. 326). As a showing of gratitude for Raymond's success at ExxonMobil, he was well compensated upon his retirement.¹³

II. EXXONMOBIL: PUBLIC CORPORATION, PRIVATE POWER

Coll's thesis can be summarized in one statistic, "[b]y the mid-1990s, Exxon operated in almost two hundred countries with about eighty thousand regular employees; overseas, 98 percent of its employees were non-American" (p. 41). It operated more gas stations overseas than it did in the United States (p. 71).¹⁴ ExxonMobil was so pervasive in its oil holdings that disruptions in its operations were comparable to production disruptions in the Chinese government (p. 246). This meant that if the United States or another government made it more difficult for ExxonMobil to operate, the corporation could just focus its efforts elsewhere; "[w]e've got opportunities all over the world" (p. 614). Raymond had once declared "I'm not a U.S. company and I don't make decisions based on what's good for the U.S." (p. 71).¹⁵

The idea of ExxonMobil being a global corporation relates to the relationships ExxonMobil builds around the world. Coll breaks these relationships into two large groups,

¹² One safety manager stated "[i]f we have a whole lot of paper cuts going on, we have to ask ourselves, 'Well, what do we do to avoid paper cuts? Do we ask people to use gloves when they use the copy machine?'" (p. 31).

¹³ Upon his departure, Raymond was given pension benefits valued at \$98 million, shares worth \$183 million, stock options worth \$70 million and a consultancy fee. The total value was just shy of \$400 million (p. 327).

¹⁴ ExxonMobil operates 29,000 gas stations in the world, 14,000 of which are located within the United States (p. 372).

¹⁵ Most of the American based oil companies are global in scale, operate more stations overseas, employ more people overseas, and pay more in taxes to foreign governments (p. 229).

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the interaction with the White House and the interaction with foreign governments. Through ExxonMobil's relationships with the White House and other heads of state, it becomes clear that the focus is not on the United States.

ExxonMobil focused its lobbying efforts on Republicans and the rare Democrat that was supportive of Big Oil (p. 75-76). However, even before George W. Bush entered office, Exxon had easy access to Washington D.C. (p. 68). Standard Oil had been broken up in 1911 as a result of antitrust concerns and now years later two of the largest oil companies and two off shoots of Standard Oil, Exxon and Mobil, were able to achieve a merger with little difficulty (p. 68). ExxonMobil's influence with the White House only strengthened when George W. Bush entered office. As a fellow oil man from his days with Halliburton, Vice President Richard "Dick" Cheney had a history with Raymond. The two met privately a few times a year and Raymond travelled to D.C. every other month (p. 69). At these meetings the discussions ranged from global politics to conversations each had with foreign leaders. Through these mutually beneficial meetings they gained a sense of the global climate (p. 70).

Raymond would meet with world leaders and heads of state as he saw fit and did not always go through the White House to do so. ExxonMobil's strategy was simple: manage the politicians in Washington and outlast them (p. 72). It made sense to align with the President when its interests required such behavior (p. 279). Operating in so many countries, specifically those with less developed political structures posed many risks and it proved invaluable to have the ear of the Vice President. When Raymond needed something he was quick to ask, but he was just as quick to disassociate the corporation when it was beneficial to do so.¹⁶

Although ExxonMobil executives were under the belief that they did not require favors from the U.S government, Coll paints a picture of a more dependent relationship. When ExxonMobil needed assistance it "had a direct line to Cheney" and often requested favors from the government (p. 324). Coll provides one such instance in which ExxonMobil was sued by eleven Acehnese villagers for acts allegedly committed by ExxonMobil employees (p. 120-21). Providing excruciating detail into ExxonMobil's relations abroad, Coll explains how the corporation entered foreign countries, what its interactions were with foreign governments and people, and the result of its operations. In this particular lawsuit, ExxonMobil lobbied the Bush administration to stop the case (p. 120-21).

That being said, ExxonMobil was in no way directed by the government and on numerous occasions the corporation sided with foreign governments against United States' interests (p. 74). Raymond made sure to distance himself from the Bush Administration's efforts in post-Saddam Hussein Iraq. ExxonMobil was wary of being associated with the failed policies of the Bush Administration in a country that had "one of the world's largest unproduced oil and gas resources bases" (p. 248). ExxonMobil would be conducting business with Iraq long after Bush left office, and any connection with Bush could jeopardize the corporation's future efforts in Iraq. Raymond determined that the Bush Administration could not create the necessary conditions for a rewarding deal with Iraq in the near future so the corporation approached the problem privately.

¹⁶ For example, when seeking to operate an oil field in the United Arab Emirates, Vice President Cheney made a call and ended a bidding war between ExxonMobil and Shell. ExxonMobil received the exclusive right to negotiate with the United Arab Emirates. After Cheney called on ExxonMobil's behalf, Raymond made it clear that he wanted the Bush Administration to keep its distance and let them proceed without interference (p. 323).

Similarly, ExxonMobil had been brokering a deal in Venezuela for nine years and had worked with different leaders in the government before Bush took office (p. 411). The corporation had little success until a dispute arose between Chavez and the Bush Administration. Chavez offered the deal to ExxonMobil on a silver platter; all it had to do was sign the contract publicly and thus reinforce confidence in Chavez's rule. However, the Bush Administration was hoping for Chavez to be overthrown, a proposition which would be less likely if Chavez had ExxonMobil's support. ExxonMobil put its own business interests ahead of the United States and signed Chavez's agreement in a televised ceremony (p. 411). Coll summarizes ExxonMobil's business in Venezuela as clear support for his thesis; "[t]he corporation's motivations were pecuniary – the interests of its private empire, not the policies of President Bush, provided the cause" (p. 412).

To bring his thesis full circle, Coll provides a very detailed analysis of ExxonMobil's foreign operations and interactions with foreign governments. Coll is clear to point out that when it comes to operating overseas, ExxonMobil wrote its own rules (p. 106). As one high ranking executive once put it, "[w]e are an oil company; we are not the Red Cross" (p. 151). Profit and oil came first and relations with the native population and government were not a priority. In order to understand ExxonMobil's priorities, Coll provides numerous examples. ExxonMobil entered Chad in 2001 for an oil venture. At the time Chad was ranked 167th out of 174 countries on the United Nations Human Development Index for quality of life and the average life expectancy was forty-seven years of age (p. 367). A goal of the venture was to set a standard for assisting countries wealthy in resources but poor economically. In 2006, ExxonMobil had been present in Chad for six years and profited from the venture; Chad however was now ranked 171st out of 177 countries on the quality of life index and the average life expectancy fell by three years to forty-four years of age (p. 367). The country was worse off as a result of ExxonMobil's presence. ExxonMobil on the other hand earned billions of dollars in revenue at a time when oil prices were reaching highs.

With that in mind, ExxonMobil did comply with local laws and customs, stating "[w]e maintain the highest ethical standards, comply with all applicable laws and regulations, and respect local and national cultures" (p. 532). However, this was not easy. Many of the countries rich in oil resources also suffered from political coups and unstable governments. Coll portrays the international relations with foreign countries as inconsistent in terms of interaction, but consistent in terms of the overall goal, making a profit.¹⁷

In Africa, ExxonMobil's stance was that it was a guest in the country and as a result would not tell a sovereign country how to govern its people. Rather ExxonMobil showed respect and did not get involved (p. 363). Contrast that with the role ExxonMobil was forced to take after Exxon merged with Mobil and acquired all the problems associated with such a merger. ExxonMobil inherited a small war in Indonesia that Mobil had been dealing with for decades (p. 93-94). It had no choice but to operate its business under these conditions. It was discovered that the Indonesian military was torturing and executing guerillas and some of the military were on ExxonMobil's payroll, providing security to the compound located in Indonesia (p. 101). As a result, ExxonMobil was brought up on human rights violations.¹⁸ In

¹⁷ Coll describes ExxonMobil's relationship with the Bush Administration as erratic and inconsistent (p. 143). It was influenced by information Raymond learned from "access to back channels with Cheney and other officials he regarded as sophisticated and reliable" (p. 143).

¹⁸ Regardless of the trial, the story made national headlines asking the question of what Mobil knew. See *Indonesia: What Did Mobil Know?*, BLOOMBERG BUSINESSWEEK (Dec. 27, 1998), <http://www.businessweek.com/stories/1998-12-27/indonesia-what-did-mobil-know>. The investigation revealed circumstantial evidence

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keeping with its policy, ExxonMobil leaned on the Bush Administration for assistance. After September 11, 2001, the Bush Administration wanted to establish peaceful relations with Indonesia in an effort to increase pressure on Al Qaeda. As a result, ExxonMobil presented the defense that domestic courts should not interfere with the President's foreign policy (p. 401). Any litigation involving the Indonesian government could possibly have an adverse impact on the United States' fight against international terrorism. Despite the Bush Administration's assistance, the case went to trial and complying with ExxonMobil's litigation strategy, the decision was appealed (p. 407). During the appeals process, the judge died and two of the plaintiff's passed away. ExxonMobil's policy of appealing and using its superior resources continued to be successful.

In order to profit in Equatorial Guinea, ExxonMobil had to adapt to the local laws, which were sometimes at odds with U.S. laws. Mobil had previously entered a financial relationship with the government and paid for land and office leases (p. 142). The United States Foreign Corrupt Practices Act states that it can be illegal for American companies to give money to businesses that are controlled by foreign government officials who are handing out contracts.¹⁹ ExxonMobil's payments included scholarships to U.S. universities for students and relatives selected by the President (p. 142). This time ExxonMobil believed that it was in its best interest to separate itself from the Bush Administration (p. 143). ExxonMobil adopted a more advisory role and advised the government on how to best improve its international reputation while not interfering politically.

III. NEW LEADER AND SUSTAINING HISTORIC LEVELS OF SUCCESS

Coll finishes his book by beginning to assess the future of ExxonMobil. He does this through two approaches; the success of Rex Tillerson, ExxonMobil's new CEO, and the Deepwater Horizon oil spill. Shortly after Raymond left ExxonMobil, Tillerson acquired XTO, a large provider of natural gas to expand ExxonMobil's portfolio (p. 582). It is estimated that eighty-five percent (85%) of the world's energy comes from fossil fuels and that is unlikely to change in the near future (p. 617). One of the growing sources was unconventional gas, a segment where ExxonMobil had no holdings. To resolve that issue, Tillerson sought to build his own or acquire someone who had experience in this field. He chose the latter and acquired XTO (p. 582). This merger, worth half the value of the Mobil merger, would likely allow ExxonMobil to safely meet the projected demand for natural gas (p. 583, 589). Despite shoring up the reserves, Tillerson was criticized for overpaying for XTO and the stock price fell (p. 591).

Although criticized for this acquisition, Tillerson's success is reflected in his ability to sustain the growth Raymond started. In 2010 ExxonMobil earned \$30.5 billion in profit and during Tillerson's short tenure as CEO, the corporation earned more profit than any other publicly traded corporation in America (p. 595). However, the news is not all positive; ExxonMobil's reserve numbers without XTO were weaker than industry rivals (p. 597). The jury is out on whether Tillerson can maintain the success Raymond created at ExxonMobil, but so far the signs are positive.

that Mobil either knew or should have known of the offenses. Despite this, Mobil continued operating in Indonesia and earning a profit. *See id.*

¹⁹ *See* 15 U.S.C. § 78dd-1 (2006).

During Raymond's tenure, ExxonMobil competed yearly with Walmart as the largest American corporation by revenue (p. 311). Since Tillerson has taken over, ExxonMobil has jockeyed with Apple as the world's most valuable company and as recently as January 25, 2013 ExxonMobil surpassed Apple.²⁰ Although the competitors have changed since Raymond was CEO, one thing remains constant, ExxonMobil's position at the top of the list.

On August 5, 2011, among economic turmoil and concern over the debt ceiling, Standard & Poor's downgraded the bonds issued by the United States Treasury to AA-plus (p. 624). After this downgrade only four American corporations had a AAA mark and a credit rating superior to that of the United States.²¹ ExxonMobil was one of those corporations (p. 624).

Twenty one years after the Exxon Valdez, the Deepwater Horizon oil spill occurred, replacing the Exxon Valdez as "the worst oil spill in American history" (p. 603). Whereas the Exxon Valdez spilled 257,000 barrels of oil, Deepwater Horizon spilled close to 5 million barrels. ExxonMobil was no longer the oil company with the weakest reputation; that dubious honor now belonged to BP.

CONCLUSION

The outlook for ExxonMobil is positive.²² Current forecasts project that there is enough oil left in the world to meet future demand for decades, if not longer (p. 617). Indeed the promise of unconventional gas means that it is even more likely that the supply will be abundant enough for future generations to come (p. 617). The major threat faced by ExxonMobil is the increasing viability of hybrid cars and alternative forms of energy. However, as a global provider of oil, any reduction in consumption in the United States can be more than offset by increased use in China and other developing countries (p. 449).

To determine whether ExxonMobil can maintain its profits and revenue stream the main focus will be on the supply of gas and the corresponding demand. Coll discusses the demand briefly referring to the increased use of gas in China and other developing countries. His predictions are consistent with recent studies. ExxonMobil estimates that "global energy

²⁰ Sarah Pringle & Lu Wang, *Apple Loses to Exxon Mobil as World's Most Valuable Company*, BLOOMBERG (Jan. 25, 2013, 4:43 PM), <http://www.bloomberg.com/news/2013-01-25/apple-surrenders-to-exxon-mobil-as-world-s-most-valuable-company.html>. At ExxonMobil Raymond implemented an accounting practice that was very strict (p. 190). Manipulating the accounting to smooth quarterly earnings for an appearance of stability was grounds for termination (p. 190). Meanwhile, Apple has been cited for tax evasion and skirting close to \$2.4 billion in taxes for the year 2011. See generally Michael A. Berger, *Not So Safe Haven: Reducing Tax Evasion by Regulating Correspondent Banks Operating in the United States*, 12 J. INT'L BUS. & L. 51 (2013).

²¹ The other three American corporations are Automatic Data Processing, Johnson & Johnson and Microsoft. Eric Dash, *AAA Rating Is a Rarity in Business*, N.Y. TIMES, Aug. 3, 2011, at B1. A few European corporations maintain a higher rating than their homeland countries. The common thread among these companies is that a large portion of their revenue is derived from overseas. As a result, any lingering threat from the U.S. downgrade is unlikely to threaten ExxonMobil who generates substantial revenue from overseas markets. See *id.*

²² In 2012 ExxonMobil recorded a yearly profit of \$44.8 billion, trailing only 2008 when it made \$45.2 billion. See Ángel González & Ben Lefebvre, *Exxon, Chevron Receive Big Boost From Refining*, WALL ST. J., Feb. 2, 2013, at B1.

demand is expected to grow by about 35% by 2040.²³ ExxonMobil has been able to keep its reserves steady, replacing 115% in 2012.²⁴ Although that number is a bit below its peers, the outlook is positive.²⁵

In terms of supply, ExxonMobil is at the forefront of the industry. The two main new sources of oil are deepwater drilling and hydraulic fracturing.²⁶ Rex Tillerson stated in a recent interview that “it takes 100 years or more for some new breakthrough in energy to become the dominant source.”²⁷ This reflects past history of coal, timber, and crude oil and if it continues then ExxonMobil is well on track.²⁸ The company has invested in these alternative forms of energy while continuing to expand its investment in traditional oil sources.

As recently as 2011 only ten percent (10%) of the supply of oil came from offshore deepwater drilling.²⁹ Offshore drilling as a whole is expected to increase dramatically in the near future as is the percentage of new oil discoveries from offshore drilling.³⁰ These unconventional sources of gas are likely to become pivotal going forward as the supply of traditional sources dwindle.³¹ ExxonMobil predicts that natural gas will replace coal as the second largest energy source by as early as 2025.³² The projected demand is expected to be as high as sixty-five percent (65%).³³ As unconventional sources become more economically viable it will be in the company’s best interest to expand its portfolio.³⁴ ExxonMobil did just that when it acquired XTO, thereby shoring up its supply of unconventional sources (p. 589).

²³ Matthew DiLallo, *Is the ExxonMobil Empire Crumbling?*, THE MOTLEY FOOL (Mar. 24, 2013), <http://www.fool.com/investing/general/2013/03/24/weekender-is-the-exxonmobil-empire-crumbling.aspx>. A recent Wall Street Journal article however is not as optimistic about ExxonMobil’s continued growth and success. See Liam Denning, *Exxon In Need of a Deal*, WALL ST. J., Mar. 4, 2013, at C1. Citing Exxon’s declining replacement of reserves compared to other competitors in the industry and its past replacement performance, Denning suggests that Exxon may need to make another acquisition. See *id.* Despite Denning’s concern, ExxonMobil replaced its reserves fully in 2012 which marked the 19th straight year that it replaced 100% of its production. Ángel González & Tess Stynes, *Exxon Reserves Topped Output*, WALL ST. J., Feb. 20, 2013, at B4.

²⁴ DiLallo, *supra* note 23.

²⁵ See *id.*

²⁶ See *id.*

²⁷ Charlie Rose, *Charlie Rose Talks to ExxonMobil’s Rex Tillerson*, BLOOMBERG BUSINESSWEEK (Mar. 7, 2013), <http://www.businessweek.com/articles/2013-03-07/charlie-rose-talks-to-exxonmobils-rex-tillerson>.

²⁸ See *id.*

²⁹ See Rebecca K. Richards, *Deepwater Mobile Oil Rigs in the Exclusive Economic Zone and the Uncertainty of Coastal State Jurisdiction*, 10 J. INT’L BUS. & L. 387, 391 (2011). ExxonMobil Vice President of Corporate Strategic Planning said “[d]eepwater production was barely on our radar screen 10 years ago, and is expected to more than double.” Nick Snow, *ExxonMobil Sees Gas Displacing Coal as World’s No. 2 Energy Source*, OIL & GAS J., Dec. 17, 2012, at 22 [hereinafter Snow, *ExxonMobil Sees Gas Displacing Coal*].

³⁰ See Richards, *supra* note 29, at 391.

³¹ ExxonMobil has applied to install a floating liquefied natural gas barge off the coast of Australia. See Tim Treadgold, *ExxonMobil Joins LNG Rush With Barge 6X Bigger Than An Aircraft Carrier*, FORBES (Apr. 2, 2013, 6:51 AM), <http://www.forbes.com/sites/timtreadgold/2013/04/02/exxonmobil-joins-the-floating-lng-rush/>. With trillions of feet of cubic gas that cannot be reached any other way, ExxonMobil has teamed with BHP Billiton to build this barge to extract the gas. With production estimated in 2020, this is just another example of ExxonMobil planning for the future. See *id.*

³² Snow, *ExxonMobil Sees Gas Displacing Coal*, *supra* note 29.

³³ See *id.*

³⁴ See Andrew Steinhubl et al., *Unconventional Resources to Keep Pivotal Supply Role*, OIL & GAS J., Jan. 26, 2009, at 18.

ExxonMobil's diversity will likely prove to be a huge asset in the future. The projections suggest that North America will face the largest growth in unconventional sources.³⁵ Having large operations in North America, ExxonMobil is poised to take advantage of this growth. However, unconventional sources still face hurdles such as climate concerns or economic concerns.³⁶

The threat of oil spills and litigation will remain constant in the future. So long as Tillerson maintains ExxonMobil's strategy, the company is likely to continue prospering. On average close to one billion gallons of oil spill each year.³⁷ Transporting billions of gallons of oil all over the world means spills are inevitable. Since Coll wrote his book, ExxonMobil has suffered its share of spills.³⁸ One recent example is spilling a few thousand barrels of oil in Arkansas, causing the evacuation of over twenty homes.³⁹ This amount of oil is classified as a "major spill" by the Environmental Protection Agency.⁴⁰ Despite this spill, Exxon received a safety award for its achievements in "workplace safety, community service and environmental stewardship" just a few days later.⁴¹ Although far from perfect, ExxonMobil remains committed to learning from its past mistakes and avoiding similar accidents in the future.⁴² The company is very aware that a reputation built over a lifetime can be lost in a single day, as it was during the Exxon Valdez.⁴³

Similar to oil spills, future litigation is inevitable. In the litigation following the Jacksonville spill, a jury awarded the plaintiffs \$1.5 billion.⁴⁴ This value does not include the compensatory damages of \$495 million. True to its strategy ExxonMobil stated that it would appeal.⁴⁵ The appeal led to a reversal of the jury verdict in Maryland.⁴⁶ The Court subsequently reversed a large part of the \$500 million compensatory damages award.⁴⁷ Further, there is a pending appeal of a \$104.7 million jury verdict in federal court in New York City.⁴⁸ In another recent case, ExxonMobil followed its strategy of not settling and was the last defendant in an \$818 million lawsuit over the presence of methyl tertiary butyl ether

³⁵ Snow, *ExxonMobil Sees Gas Displacing Coal*, *supra* note 29. Exxon has capitalized on the large growth of unconventional oil in North America. Of its replacement of reserves in 2012, a large emphasis was placed on unconventional assets in North America. See González & Stynes, *supra* note 23.

³⁶ Nick Snow, *Carbon Policies May Limit Shale Gas Production Growth, Expert Warns*, OIL & GAS J., Dec. 10, 2012, at 21.

³⁷ Richards, *supra* note 29, at 394.

³⁸ See generally Steven Mufson, *Exxon Mobil Pipeline Leaks 'a Few Thousand' Barrels of Crude Oil in Arkansas*, WASH. POST (Mar. 31, 2013), http://articles.washingtonpost.com/2013-03-31/business/38170820_1_keystone-xl-pipeline-oil-sands-crude.

³⁹ See *id.*

⁴⁰ *Id.*

⁴¹ Lucia Graves, *Exxon Receives Safety Medal From National Safety Council Days After Arkansas Oil Spill*, HUFFINGTON POST (Apr. 5, 2013, 12:37 PM), http://www.huffingtonpost.com/2013/04/05/exxon-safety-medal-oil-spill_n_3021132.html.

⁴² See Rose, *supra* note 27.

⁴³ *Id.*

⁴⁴ *Jury Says Exxon Must Pay \$1.5 Billion for Gas Station Leak*, WESTLAW J. TOXIC TORTS, July 28, 2011, at *1.

⁴⁵ *Id.*

⁴⁶ Don Jeffrey & Sarah Earle, *Exxon Mobil is Found Negligent in New Hampshire MTBE Use*, BLOOMBERG (Apr. 10, 2013, 12:01 AM), <http://www.bloomberg.com/news/2013-04-09/exxon-mobile-is-found-neligent-in-new-hampshire-mtbe-use.html> [hereinafter Jeffrey & Earle, *Exxon Mobil is Found Negligent*].

⁴⁷ Tracy, *supra* note 9.

⁴⁸ Jeffrey & Earle, *Exxon Mobil is Found Negligent*, *supra* note 46.

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in New Hampshire's water supply.⁴⁹ Other oil companies were dismissed for settlements of close to \$16 million.⁵⁰ The jury handed down a verdict of \$236 million.⁵¹ Once again ExxonMobil has vowed to appeal.⁵²

When asked about his philosophy, Rex Tillerson gave the prototypical ExxonMobil answer, "[m]y philosophy is to make money. If I can drill and make money, then that's what I want to do."⁵³ If Tillerson focuses on that adage going forward then ExxonMobil will continue to experience the success it has grown accustomed to. *Private Empire: ExxonMobil And American Power* is a thorough and entertaining case study of one of the most successful corporations in the world. In analyzing a company whose influence stretches the entire world by discussing global politics, human rights, and environmental concerns Coll has written a book that has something for everyone.

⁴⁹ Don Jeffrey & Sarah Earle, *Exxon Mobil Begins Defense in New Hampshire MTBE Trial*, BLOOMBERG LAW (Mar. 4, 2013, 12:00 AM), <http://about.bloomberglaw.com/legal-news/exxon-mobil-begins-defense-in-new-hampshire-mtbe-trial/>.

⁵⁰ Jeffrey & Earle, *Exxon Mobil is Found Negligent*, *supra* note 46.

⁵¹ *Id.*

⁵² *See id.*

⁵³ *See* Rose, *supra* note 27.

